

STATEMENT OF BASIS

**BIRDS EYE FOODS
3303 SOUTH 35TH STREET
TACOMA, WA 98409**

PERMIT NO. WA0037419

The purpose of this statement of basis is to explain the need to modify the discharge permit and provides the basis for changes.

I. GENERAL INFORMATION

<u>Permittee:</u>	Birds Eye Foods P.O. Box 11046 Tacoma, WA 98411
<u>Facility:</u>	Birds Eye Foods 3303 South 35th Street Tacoma, WA 98409
<u>Discharge Location:</u>	Latitude: 47° 13' 42" N Longitude: 122° 28' 43" W

II. PERMIT APPEAL BACKGROUND

1. On September 10, 2009, Ecology issued NPDES Permit (No. WA0037419) to Birds Eye Foods. The Permit authorized wastewater discharges for Birds Eye Foods' facility in Tacoma, Washington.
2. On, or about October 8, 2009, Birds Eye Foods appealed the Permit to the Pollution Control Hearings Board (PCHB) regarding permit requirements to monitor flow on a continuous basis using a flow meter. Birds Eye Foods' relief sought was to revert the flow monitoring requirements to those contained in the previously issued NPDES Permit. Previously, flow was to be monitored "quarterly" and by "grab" (which was meant one reported value was required).
3. Ecology and Birds Eye Foods have agreed to resolve the appeal of the Permit through a settlement agreement submitted to the PCHB on November 6, 2009. On November 12, 2009 the PCHB dismissed the case.

III. SETTLEMENT AGREEMENT TERMS

1. In accordance with the Settlement Agreement, the Permit will be modified as follows: The monitoring schedule in Special Condition S2.A states that the Minimum Sampling Frequency for Flow is "continuous" and that the Sample Type is "metered." This schedule shall be modified to state that the Minimum Sampling Frequency for Flow is "quarterly" and the sample type is "estimated."
2. The parties jointly acknowledge that Ecology has agreed to the permit modification in Paragraph B(1) based on Birds Eye Foods' commitment to explore construction of a

cooling water recycling system that would result in zero discharge to the City of Tacoma's storm sewers which drain to the Thea Foss Waterway via the "Twin 96ers." If Birds Eye Foods concludes, prior to expiration of the permit, that it does intend to construct the zero discharge cooling water system, then Birds Eye Foods agrees to immediately inform Ecology of its decision.

3. If the condition described in Paragraph B(2) occurs, then Ecology, at its sole discretion, may modify Condition S2.A to require that Minimum Sampling Frequency for Flow is "continuous" and that the Sample Type is "metered." Birds Eye Foods agrees to install an effluent flow meter to their cannery retort system in accordance with a schedule approved by Ecology. The approved compliance schedule for the flow meter will be included in the permit modification. Birds Eye Foods agrees not to appeal this permit modification.
4. This Agreement does not impact Ecology's authority to modify other permit terms in accordance with federal and state requirements nor does it impact Birds Eye Foods' right to appeal permit modifications other than the modification described in paragraph B(3).

This statement of basis will serve as an amendment to the fact sheet.